



**BILLING CODE 3510-DS-P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**[A-580-895]**

**Low Melt Polyester Staple Fiber from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that Low Melt Polyester Staple Fiber (low melt PSF) from the Republic of Korea (Korea) is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2016, through March 31, 2017.

**DATES:** Applicable **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**FOR FURTHER INFORMATION CONTACT:** Alice Maldonado or Brittany Bauer, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4682 or (202) 482-3860, respectively.

## **SUPPLEMENTARY INFORMATION:**

### Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on July 24, 2017.<sup>1</sup> On November 20, 2017, Commerce postponed the preliminary determination of this investigation until January 23, 2018.<sup>2</sup> Commerce has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the preliminary determination of this investigation is now January 26, 2018.<sup>3</sup> For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.<sup>4</sup> A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

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<sup>1</sup> *See Low Melt Polyester Staple Fiber from the Republic of Korea and Taiwan: Initiation of Less-Than-Fair-Value Investigations*, 82 FR 34277 (July 24, 2017) (*Initiation Notice*).

<sup>2</sup> *See Low Melt Polyester Staple Fiber from the Republic of Korea and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 82 FR 55091 (November 20, 2017).

<sup>3</sup> *See* Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government," dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

<sup>4</sup> *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Low Melt Polyester Staple Fiber from the Republic of Korea (Korea)" dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

### Scope of the Investigation

The product covered by this investigation is low melt PSF from Korea. For a complete description of the scope of this investigation, *see* Appendix I.

### Scope Comments

In accordance with the preamble to Commerce's regulations,<sup>5</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>6</sup> During this period, no interested party commented on the scope of this investigation; however, we received comments on the overlap between the scope of this investigation and other proceedings before Commerce.<sup>7</sup>

Nonetheless, Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice* to eliminate the overlap in product coverage with the existing PSF Korea antidumping duty order.<sup>8</sup> *See* the revised scope in Appendix I to this notice. For further discussion, *see* the Preliminary Decision Memorandum.

### Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the

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<sup>5</sup> *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>6</sup> *See Initiation Notice*.

<sup>7</sup> *See* the petitioner's Letter re: Low Melt Polyester Staple Fiber from the Republic of Korea and Taiwan - Petitioner's Comments on Potential Scope Overlap, dated October 5, 2017. The petitioner in this case is Nan Ya Plastics Corporation, America.

<sup>8</sup> *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber from the Republic of Korea and Antidumping Duty Orders: Certain Polyester Staple Fiber from the Republic of Korea and Taiwan*, 65 FR 33807 (May 25, 2000).

methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

#### Preliminary Affirmative Determination of Critical Circumstances, in Part

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily finds that critical circumstances do not exist for Huvis Corporation (Huvis), and do exist for Toray Chemical Korea Inc. (TCK) and all other producers/exporters. For a full description of the methodology and results of Commerce's critical circumstances analysis, *see* the Preliminary Decision Memorandum.

#### All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce preliminarily found a zero rate for Huvis. Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available is the rate calculated for TCK. Consequently, the rate calculated for TCK is also assigned as the rate for all-other producers and exporters in this investigation.

#### Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

<b>Exporter/Producer</b>	<b>Estimated Weighted-Average Dumping Margin (percent)</b>
Huvis Corporation	0.00
Toray Chemical Korea Inc.	16.48
All-Others	16.48

### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination, except if that rate is zero or *de minimis*, no cash deposit will be required; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise except as explained below; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Because the estimated weighted-average dumping margin for Huvis is zero, entries of shipments of subject merchandise produced and exported by this company will not be subject to

suspension of liquidation or cash deposit requirements. In such situations, Commerce applies the exclusion to the provisional measures to the producer/exporter combination that was examined in the investigation. Accordingly, Commerce is directing CBP not to suspend liquidation of entries of subject merchandise produced and exported by Huvis. Entries of shipments of subject merchandise from this company in any other producer/exporter combination, or by third parties that sourced subject merchandise from the excluded producer/exporter combination, are subject to the provisional measures at the all others rate.

Should the final estimated weighted-average dumping margin be zero or *de minimis* for Huvis, entries of shipments of subject merchandise produced and exported by Huvis will be excluded from the potential antidumping duty order. Such exclusion is not applicable to merchandise exported to the United States by this respondent in any other producer/exporter combinations or by third parties that sourced subject merchandise from the excluded producer/exporter combination.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. Commerce preliminarily finds that critical circumstances exist for imports of subject merchandise produced or exported by TCK and all producers/exporters of low melt PSF from Korea, except for Huvis. In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of shipments of subject merchandise from the producer(s) or exporter(s) identified in this paragraph that were entered, or withdrawn from

warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

These suspension of liquidation instructions will remain in effect until further notice.

#### Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

#### Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

#### Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.<sup>9</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after

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<sup>9</sup> See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

#### Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On December 1 and December 5, 2017, pursuant to 19 CFR 351.210(e), TCK and Huvis, respectively, requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.<sup>10</sup> On January 8, 2018, the petitioner also requested that Commerce postpone the final determination.<sup>11</sup> In accordance with section

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<sup>10</sup> See TCK's Letter re: Low Melt Polyester Staple Fiber from the Republic of Korea: Request to Postpone the Final Determination, dated December 1, 2017; and Huvis' Letter re: Low Melt Polyester Staple Fiber from the Republic of Korea: Request to Extend the Deadline for the Final Determination, dated December 5, 2017.

<sup>11</sup> See the petitioner's Letter re: Low Melt Polyester Staple Fiber from the Republic of Korea and Taiwan: Petitioner's Request Regarding Extension of the Final Determination Deadline, dated January 8, 2018.



735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

#### International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

#### Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: January 26, 2018.

**P. Lee Smith,**

*Deputy Assistant Secretary for Policy and Negotiations.*

## **Appendix I**

### **Scope of the Investigation**

The merchandise subject to this investigation is synthetic staple fibers, not carded or combed, specifically bi-component polyester fibers having a polyester fiber component that melts at a lower temperature than the other polyester fiber component (low melt PSF). The scope includes bi-component polyester staple fibers of any denier or cut length. The subject merchandise may be coated, usually with a finish or dye, or not coated.

Excluded from the scope of the investigation on low melt PSF from Korea are any products covered by the existing antidumping duty order on certain polyester staple fiber from Korea. *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber from the Republic of Korea and Antidumping Duty Orders: Certain Polyester Staple Fiber from the Republic of Korea and Taiwan*, 65 FR 33807 (May 25, 2000).

Low melt PSF is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 5503.20.0015. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the merchandise under the investigation is dispositive.

## **Appendix II**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
  - II. Background
  - III. Period of Investigation
  - IV. Scope Comments
  - V. Discussion of the Methodology
    - A. Determination of the Comparison Method
    - B. Results of the Differential Pricing Analysis
  - VI. Date of Sale
  - VII. Product Comparisons
  - VIII. Export Price
  - IX. Normal Value
    - A. Home Market Viability
    - B. Level of Trade
    - C. Cost of Production (COP) Analysis
      - 1. Calculation of COP
      - 2. Test of Comparison Market Sales Prices
      - 3. Results of the COP Test
    - D. Calculation of NV Based on Comparison Market Prices
  - X. Critical Circumstances
  - XI. Currency Conversion
  - XII. Conclusion
- [FR Doc. 2018-02042 Filed: 2/1/2018 8:45 am; Publication Date: 2/2/2018]